



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Berlex Biosciences
Legal Department
15049 San Pablo Avenue
P.O. Box 4099
Richmond, CA 94804-0099

COPY MAILED

SEP 03 2004

In re Application of :
Ted Lau, et. al. :
Application No. 09/838,785 :
Filed: April 20, 2001 :
Attorney Docket No. 51831AUSM1 :

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 3, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed December 17, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight March 17, 2004.

In response, petitioner submitted with the instant petition \$1,330 for the petition to revive fee, an Information Disclosure Statement (IDS), an amendment, a Request for Continued Examination (RCE) under 37 CFR 1.114, \$770 for the RCE filing fee, and \$950 for a three (3) months extension of time. However, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See *In re Application of S.*, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$950 extension of time submitted with the petition on August 3, 2004 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The petition is **GRANTED**.

It is not apparent whether the correspondence address has changed. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application file is being referred to Technology Center Art Unit 1642, for processing the Request for Continued Examination under 37 CFR 1.114, and for further review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 308-6711.


Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC: Berlex Biosciences
2600 Hilltop Drive
Richmond, CA 94804